

ASSEMBLY BILL

No. 1548

Introduced by Assembly Member Carter

(Coauthors: Assembly Members Bill Berryhill and Hill)

(Coauthors: Senators Correa, Emmerson, Negrete McLeod, and Wyland)

January 25, 2012

An act to add Section 2417.5 to the Business and Professions Code, relating to the practice of medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, as introduced, Carter. Practice of medicine: cosmetic surgery: employment of physicians and surgeons.

Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law makes it unlawful to knowingly make, or cause to be made, any false or fraudulent claim for payment of a health care benefit, or to aid, abet, solicit, or conspire with any person to do so, and makes a violation of this prohibition a public offense.

This bill, with respect to a business organization that provides outpatient elective cosmetic medical procedures or treatments, that is owned and operated in violation of the prohibition against employment of licensed physicians and surgeons and podiatrists, and that contracts with or employs these licensees to facilitate the offer or provision of procedures or treatments that may only be provided by these licensees, would make that business organization guilty of a violation of the

prohibition against knowingly making or causing to be made any false or fraudulent claim for payment of a health care benefit. Because the bill would expand a public offense, it would impose a state-mandated local program.

This bill would state that its provisions are declaratory of existing law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that the
2 Medical Practice Act restricts the employment of physicians and
3 surgeons by a corporation or other artificial legal entity, as
4 described in Article 18 (commencing with Section 2400) of Chapter
5 5 of Division 2 of the Business and Professions Code, and that the
6 prohibited conduct described in Section 2417.5 of the Business
7 and Professions Code, as added by this act, is declaratory of
8 existing law.

9 SEC. 2. Section 2417.5 is added to the Business and Professions
10 Code, to read:

11 2417.5. (a) A business organization that offers to provide, or
12 provides, outpatient elective cosmetic medical procedures or
13 treatments, that is owned or operated in violation of Section 2400,
14 and that contracts with, or otherwise employs, a physician and
15 surgeon to facilitate its offers to provide, or the provision of,
16 outpatient elective cosmetic medical procedures or treatments that
17 may be provided only by the holder of a valid physician's and
18 surgeon's certificate is guilty of violating paragraph (6) of
19 subdivision (a) of Section 550 of the Penal Code.

20 (b) For purposes of this section, "outpatient elective cosmetic
21 medical procedures or treatments" means medical procedures or
22 treatments that are performed to alter or reshape normal structures
23 of the body solely in order to improve appearance.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS:

Heading—Coauthors—Line 3.

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